Fresno, California

July 31, 2007

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present: Brian Calhoun Councilmember

Mike Dages Councilmember
Jerry Duncan Councilmember
Cynthia Sterling Councilmember
Larry Westerlund Councilmember

Blong Xiong Acting Council President

Henry Perea Council President

Andy Souza, City Manager Jim Sanchez, City Attorney Becky Klisch, City Clerk

Yolanda Salazar, Assistant City Clerk

Pastor Bob Small of Northwest Church gave the invocation, and President Perea led the Pledge of Allegiance.

APPROVE MINUTES OF JULY 24, 2007:

On motion of Councilmember Westerlund, seconded by Councilmember Duncan, duly carried, RESOLVED, the minutes of July 24, 2007, approved as submitted.

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COUNCIL MEMBER REPORTS AND COMMENTS:

COUNCILMEMBER DUNCAN: Request city manager provide a list of all issues the Trump organization has requested of the City, with City Manager Souza responding.

ACTING PRESIDENT XIONG: Thank you to staff for their assistance with, and coordination of, the upcoming API meeting.

COUNCILMEMBER WESTERLUND: (1) Thank you to staff and the administration for all their work on the Melody Park skate park; and (2) request staff look into what can be done to move construction forward on Chestnut Avenue between Bullard and Shaw Avenues, with City Manager Souza and City Attorney Sanchez responding to the issue and related litigation.

Councilmember Reports and Comments was briefly interrupted for the following presentation:

(NOA) PRESENTATION OF RESOLUTION TO COUNCILMEMBER STERLING BY ASSEMBLYMAN JUAN ARAMBULA

Assemblyman Arambula presented a memorial resolution to Councilmember Sterling acknowledging the contributions of her Mother, Elma Sterling, the city's first African-American woman to serve on the City Council.

REPORTS AND COMMENTS - CONTINUED:

PRESIDENT PEREA: (1) Pursuant to AB 1234 report on attendance at the League of Cities summer conference in Monterey; and (2) delay in issuing a parking pass to Council Office employee Pete Muniz since his return from military duty and request staff expedite the issuance.

COUNCILMEMBER STERLING: (1) Thank you to all for the support on the passing of her Mother; (2) commendation to Clinton Avenue fire station personnel for their professionalism in responding to a medical emergency Sunday at a church; and (3) notification of, with details to follow, a community meeting to be held on August 13th on the Trump Running Horse proposal and a tour of the west Fresno area by Ivanka Trump prior to the meeting.

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150-25 7/31/07

APPROVE AGENDA:

(11:00 A.M.) HEARING TO CONSIDER ACCEPTANCE AND ADOPTION OF THE COPPER RIVER RANCH IMPACT FEE STUDY REPORT, AND ADOPTION OF THE FINDING OF CONFORMITY WITH THE GENERAL PLAN MEIR AND PROJECT EIR (Continue to August 21, 2007, at 10:45 a.m.)

Continued as noted.

(10:15 A.M.) CONTINUED HEARING TO CONSIDER CFD NO. 11/ANNEXATION NO. 18 - FINAL TRACT NO. 5589

- 1. RESOLUTION ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF TAXES
- 2. RESOLUTION CALLING A SPECIAL MAILED-BALLOT ELECTION
- 3. RESOLUTION DECLARING ELECTION RESULTS
- 4. BILL LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2007-08 AND FUTURE TAX YEARS

City Clerk Klisch advised the hearing was going to be postponed and staff would speak to the issue at the designated time.

JOINT CLOSED SESSION WITH THE REDEVELOPMENT AGENCY

('B') PUBLIC EMPLOYEE PERFORMANCE EVALUATION/<u>TITLE:</u> EXECUTIVE DIRECTOR OF THE REDEVELOPMENT AGENCY - COUNCILMEMBER STERLING

Councilmember Calhoun advised he found Executive Director Murphey's anniversary date was missed and she did not receive her annual evaluation as the city clerk and city attorney had, and asked that the evaluation procedure outlined in Agency Resolution No. 1625 be followed and made a motion to table the matter to August 21st to allow Ms. Murphey time to prepare her self-evaluation.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, Joint Closed Session Item "B" tabled to August 21, 2007, by the following vote:

Ayes : Calhoun, Duncan, Westerlund, Xiong

Noes : Dages, Sterling, Perea

Absent: None

JOINT CLOSED SESSION WITH THE REDEVELOPMENT AGENCY

('C') PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Because of the prior action Councilmember Calhoun requested Item 'C' be removed from the agenda stating since there had been no evaluation he felt the item was inappropriately scheduled, and made a motion to remove it. Councilmembers Sterling, Dages and President Perea all spoke against the motion stating a full discussion on disciplinary procedures was needed, matters needed to be aired out now, and a lot was happening at City Hall and it was best to deal with challenges sooner rather later.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, Joint Closed Session Item "C" removed from the agenda, by the following vote:

Ayes : Calhoun, Duncan, Westerlund, Xiong

Noes : Dages, Sterling, Perea

Absent: None

On motion of Councilmember Westerlund, seconded by President Perea, duly carried, RESOLVED, the **AGENDA** hereby approved, <u>as amended</u>, by the following vote:

Ayes: Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

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150-26 7/31/07

ADOPT CONSENT CALENDAR:

Councilmember Calhoun pulled Items 1-G and 1-H from the Consent Calendar for separate discussion/action.

- **(1-A)** AUTHORIZE THE DIRECTOR OF AVIATION TO EXECUTE AMENDMENT NO. 3 TO THE AGREEMENT WITH CARTER BURGESS, INC., IN THE AMOUNT OF \$149,000 TO PROVIDE ADDITIONAL DESIGN WORK AND CONSTRUCTION ADMINISTRATION SERVICES FOR CONSTRUCTION OF AIRPORT TAXIWAY IMPROVEMENTS AT THE FYI AIRPORT
- (1-B) AUTHORIZE THE PURCHASING DIVISION TO PARTICIPATE IN THE STATE OF CALIFORNIA CAL CARD PROGRAM BY APPROVING THE MASTER SERVICES AGREEMENT ADDENDUM WHICH WILL ALLOW CITY DEPARTMENTS TO MAKE SMALL DOLLAR PURCHASES FOR MATERIALS, PARTS, AND SUPPLIES; AND AUTHORIZE EXECUTION OF PROGRAM DOCUMENTS
- (1-C) ADOPT THE MEMORANDUM OF UNDERSTANDING WITH THE FRESNO POLICE OFFICERS ASSOCIATION (FPOA UNIT 9), COVERING THE PERIOD JULY 1, 2007, THROUGH JUNE 30, 2010
- 1. RESOLUTION NO. 2007-256 1ST AMENDMENT TO SALARY RES. 2007-215 AMENDING EXHIBIT 9, POLICE MANAGEMENT (FPOA)
- (1-D) AWARD A FIVE-YEAR REQUIREMENTS CONTRACT FOR BUS ADVERTISING SERVICES WITH PROVISIONS FOR TWO (2) ADDITIONAL ONE-YEAR EXTENSIONS TO LAMAR TRANSIT ADVERTISING
- (1-E) RESOLUTION NO. 2007-257 INITIATING REZONING (PRE-ZONING) ON 5 PARCELS TOTALING APPROXIMATELY 18.21 ACRES WITHIN THE CITY'S SPHERE OF INFLUENCE
- **(1-F)** APPROVE AMENDMENT NO. 1 TO THE HOME PROGRAM AGREEMENT WITH ALVIS PROJECTS, INC., TO EXTEND THE PROJECT'S TIMELINE TO AUGUST 31, 2008; AND INCREASING THE AMOUNT OF HOME FUNDS PER HOME TO \$100,000 TO BE UTILIZED AS MORTGAGE ASSISTANCE TO PARTICIPATING LOW-INCOME HOMEOWNERS
- (1-I) AWARD AN INTERIM EXTENSION OF REQUIREMENTS CONTRACT FOR LEASING OF VANPOOL VEHICLES THROUGH FEBRUARY 29, 2008, OR SOONER, TO ENTERPRISE RIDESHARE
- (1-J) AUTHORIZE THE CITY MANAGER TO EXECUTE A RENEWAL AGREEMENT WITH THE FRESNO COUNTY INTERAGENCY COUNCIL FOR CHILDREN AND FAMILIES (ICCF) FOR FY 2008, AND APPROVE \$9,000 AS THE CITY'S SHARE AS A SPONSORING MEMBER
- (1-K) APPROVE AN OFF-CAMPUS FEDERAL WORK STUDY AGREEMENT WITH THE STATE CENTER COMMUNITY COLLEGE DISTRICT (SCCCD), AND AUTHORIZE THE PR&CS DEPARTMENT TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

On motion of Councilmember Dages, seconded by President Perea, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

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CONTESTED CONSENT CALENDAR:

(1-G) REJECT ALL BIDS FOR RESIDENTIAL WATER METER INSTALLATION PLATS 1358, 1360, 1361, 2151 AND 2361

Public Utilities Director Ramirez and Assistant Director Martin responded to questions, comments, and/or concerns of Councilmembers Calhoun and Westerlund and/or clarified issues relative to why bids were being rejected, the importance of meter installation and concern with the process and tight timeline, the consultant advising of issues after the fact, what the purpose of the consultant was, why staff was not warned by the consultant of risks with electronic readings before going out to bid, and fundamental assumptions made prematurely.

150-27 7/31/07

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, all bids received for residential water meter installation hereby rejected, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

(1-H) APPROVE A YEAR-TO-YEAR MEMORANDUM OF UNDERSTANDING (MOU) AGREEMENT FOR USE OF ROOM 201 BY THE CENTER FOR MULTICULTURAL COOPERATION (CMC) AT THE CITY-OWNED VETERANS MEMORIAL AUDITORIUM AT 2425 FRESNO STREET FOR THE PURPOSE OF OPERATING A DIGITAL COMPUTER CLUBHOUSE

Councilmember Calhoun presented questions and comments relative to concern with moving in the direction of using up all parts of the auditorium, some groups having exclusive use, other groups wanting to use the facility, need to determine if the city is willing to subsidize groups or if all groups should pay, and need to delay action until staff reports back with general polices and their recommendation on the use of the building, with PR&CS Director Cooper responding and clarifying issues throughout. Councilmember Calhoun made a motion to lay the matter over to August 21st for a report and recommendation from staff. The motion was seconded by Councilmember Westerlund who clarified he had no problem with groups using the facility but he wanted to see an overall policy first. President Perea stated he also supported the organization but his concern was that information was not included in his packet.

Don Austin spoke in support of approving the MOU this date.

A motion of Councilmember Calhoun, seconded by Councilmember Westerlund, to continue the matter to August 21, 2007, for a report and recommendation from staff on general policies and use of the Veterans Memorial Auditorium failed, by the following vote:

Ayes : Calhoun, Westerlund, Perea Noes : Dages, Duncan, Sterling, Xiong

Absent: None

A motion and second was made to approve staff's recommendation.

Councilmember Calhoun spoke in opposition to the motion stressing the item came in late, the matter was placed on the consent calendar, and there was no reason to rush, (2 - 0) and expressed concern with using children as a reason to gain support. At the request of President Perea, Mr. Cooper explained what was at issue.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Item **1-H** hereby approved, by the following vote:

Aves : Dages, Duncan, Sterling, Xiong, Perea

Noes : Calhoun, Westerlund

Absent: None

Councilmember Calhoun stated the larger question was whether to issue an RFP to the community to allow those who want to use the facility an opportunity to bid but stated what was happening was the first person who gets to Mr. Cooper gets the facility and that was wrong.

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(9:00 A.M.) PUBLIC COMMENT PERIOD - UNSCHEDULED ORAL COMMUNICATION:

Steven Frazier, One Call Center employee, spoke to his experience with Handy Ride and in support of the service MV Transportation is providing.

Don Austin spoke to the need for the City to look into developing a long-range plan for the Veterans Memorial Auditorium.

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150-28 7/31/07

(9:15 A.M.) RESOLUTION - AUTHORIZE THE CITY MANAGER TO EXECUTE PROGRAM AGREEMENT NO. 1 WITH THE SAN JOAQUIN VALLEY POWER AUTHORITY (SJVPA) IN ORDER FOR THE CITY TO PARTICIPATE IN A COMMUNITY CHOICE AGGREGATION (CCA) PROGRAM

Public Utilities Director Ramirez gave an in-depth PowerPoint presentation on the issue which entailed an overview of the CCA Program, CCA being about CHOICE and VALUE, voting shares, the SJVPA, SJVPA/CCA Program average annual residential savings, a typical residential power bill, estimated Fresno electrical account savings, not signing Program Agreement #1, benefits from CCA, estimated COF electrical account savings, PG&E service territories and facts, and CCA Program risks.

PG&E representatives Al Galvez and John Nelson addressed comments about "blackouts", clarified PG&E supported customer choice, and spoke to their concerns with the program which included the belief that it will bring higher risks to customers, the changes in their rate charges, customers being locked in once they join, the ability to charge customers different rates, and the proposed power plant.

Speaking to the issue were: Franz Weinschenk, support for joining the SJVPA; Tony Valtierra, Chairman of the Board for the Fresno Area Hispanic Chamber of Commerce, opposition/concerns with the program; Ken Blackwood, representing the San Joaquin Valley Black Chamber of Commerce, concerns with the program; Randy Ghan, Executive Secretary/Treasurer of the Fresno/Madera/Tulare/Kings Central Labor Council, opposed to the proposal (3 - 0); Mukasa Kezala, support for the program; Hunter Stern, business representative of IBEW Local 1245, opposed to the program; Laine Hendricks, Central Valley Program Coordinator for the National Parks Conservation Association, concerns with the power plant/opposed to the proposal; Kevin Hall, SCIU and Sierra Club/Tehipite Chapter, opposed; Carolina Simunovic, Fresno Metro Ministry, opposed due to the proposed Parlier power plant; Sarah Sharpe, Coalition for Clean Air, opposed to the proposal and who also submitted a written letter into the record; John Hutson, representing the Building and Construction Trades for the SJV, and President/CEO of the Fresno Nuclear Energy Group, support for the program; Michel Grill, IBEW 1245 representative and former PG&E employee, opposed; Mark Stout, support and who also submitted into the record a map of on-line approved power plant licensing cases; Barbara Hunt, support; and Rey Leon, Senior Policy Analyst with the Latino Issues Forum, opposed.

Acting President Xiong thanked PG&E, the KRCD, and the community advocates for all their work and assistance; stated he had concerns originally relative to the Parlier power plant, emission credits, the missing community advocacy piece, the uncertainty with cost savings, and choice but he felt issues had been addressed and explained; and acknowledged there were still issues to be addressed but he felt some major obstacles had been worked out and made a motion to adopt the above Resolution with the condition that any cost savings incurred be set-aside in a fund earmarked for Green initiatives, and direct staff to return with a policy to implement usage of the "Green Initiative Fund", which motion was seconded by Councilmember Calhoun. Upon question, City Attorney Sanchez stated the motion was legally doable and City Manager Souza advised staff would move in that direction although there would be a few challenges and explained.

Councilmember Calhoun stated he concurred with Acting President Xiong; added he felt the issue had been very well vetted; stated his support for staff's recommendation and the motion; elaborated at length on his support for the program, on various related issues, and on the concerns expressed (4 - 0); and stated this was a chance of a lifetime and urged Council to support the motion.

Lengthy discussion continued. Councilmember Duncan stated he was supportive of the concept at first but was very opposed to it now and along with Councilmember Dages presented questions, comments and/or concerns relative to the last minutes changes, cost for the proposed "world's largest solar plant", if that cost had not been factored into the fiscal analysis, lack of an independent review since this issue started, "choice" being forced choice, the Parlier power plant/emission credits/intent being to build it, this being a classic case of a government entity saying "trust us" even though this has not been tried before, number of city customers that will affected if approved, cost to opt out, and if the City will be responsible for exit fees, with Mr. Ramirez and Mr. Nelson responding throughout. Councilmember Westerlund thanked everyone for their input and for information provided; stated this was a very sophisticated, complex deal with a lot of moving parts, he appreciated what was being done this date, and this was a business decision with some risks but the risks appeared to be appropriate and explained; elaborated on his support for the program; and stated Council needed to look at this and what it will mean to the people in central, west and southeast Fresno in terms of having a choice and he hoped Council would support the motion. Mr. Ramirez and Mr. Nelson responded to questions of Councilmember Sterling relative to a lifeline program, which PG&E programs customers will lose access to if this program is approved, risks to consumers not examined, how customers will be made aware of the program, and if it was possible that customers who conserve could be charged a higher rate. Councilmember Sterling stated this was too confusing, she felt this was not the direction the City wanted to go, and she would not support the motion.

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City Manager Souza clarified if the Authority determines to go forward with the power plant it will give the City a sixty (60) day notice which is a sufficient amount of time to get people together to hear concerns and it would also give the City the opportunity by resolution to withdraw from any activity related to a power plant, and thanked the Authority for working with staff resulting in the City having a 26% vote at the table and being a part of the decision-making process.

Mr. Ramirez and Patrick Malloy with Navigant Consulting responded to questions of President Perea relative to why Fresno's voting percentage decreased from 34% to 26%, if Fresno's voting power would diminish even more by more entities joining the Authority, if other agencies can join as voting members, the 5% cost savings and if CitiGroup will eat the costs forever if the 5% savings is not met, what the exit fee cost will be to the City as a customer and residents, (5 - 0) and emission credits and concern with that language. President Perea elaborated on his concerns with the resolution and program and urged a "no" vote. Upon question of Councilmember Westerlund, Thomas Hagland, Chairman of the Board of the SJVPA, confirmed the program would continue forward and a decision would be made on the power plant with or without the city of Fresno at the table, whereupon Councilmember Westerlund urged Council to support the motion stating all Council would be doing by not joining the Authority was taking away the City's voice.

A motion of Acting President Xiong, seconded by Councilmember Calhoun, to adopt the above entitled Resolution with the condition that any cost savings incurred be set-aside in a fund earmarked for Green initiatives, and further direct staff to return with a policy to implement usage of the "Green Initiative Fund" failed, by the following vote:

Ayes : Calhoun, Westerlund, Xiong Noes : Dages, Duncan, Sterling, Perea

Absent: None

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RECESS - 12:00 P.M. - 12:05 P.M.

JOINT CLOSED SESSION WITH THE REDEVELOPMENT AGENCY:

('A') CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION - <u>CASE NAME:</u> DOUG VAGIM, ET AL. V. FRESNO RDA; COF, ET AL.

REGULAR CLOSED SESSION OF THE CITY COUNCIL:

- **('D')** CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION <u>CASE NAME:</u> COF. V. BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, ET AL.
- ('E') CONFERENCE WITH REAL PROPERTY NEGOTIATOR <u>UNDER NEGOTIATION</u>: PURCHASE OF SUBJECT PROPERTIES:
- 1. STATE OF CALIFORNIA, 2855 W. WHITES BRIDGE
- 2. COMP. ALCOHOL PROGRAM, 2445 W. WHITES BRIDGE
- 3. FRESNO IRRIGATION DISTRICT
- 4. HAIG ATAMIAN, 2343 W. KEARNEY
- 5. ANTHONY MELLO, 2820 W. CALIFORNIA
- 6. RAY SCOTT, 2105 W. CALIFORNIA
- 7. HENH HO, 2394 S. HUGHES
- 8. SHIGEO HAYASHI, 1348 S. MARKS

The City Council met in joint and regular closed session in Room 2125 at the hour of 12:05 p.m. to consider the above matters and adjourned at 12:55 p.m. An announcement was made on Item "D" at the conclusion of "CITY COUNCIL" items.

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150-30 7/31/07

(10:00 A.M. #1) HEARING TO CONSIDER THE PROPOSED ASSESSMENT FOR LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT (LLMD) NO. 1

1. RESOLUTION NO. 2007-258 - APPROVING THE ENGINEER'S REPORT AND LEVYING THE ANNUAL ASSESSMENTS FOR LLMD NO. 1

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon his question Assistant Public Works Director Mozier advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Dages, seconded by Acting President Xiong, duly carried, RESOLVED, the above entitled Resolution No. 2007-258 hereby adopted, by the following vote:

Ayes: Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : Calhoun Absent : None

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(10:00 A.M. #2) HEARING ON CFD NO. 11 - ANNEXATION NO. 17 - FINAL TRACT MAP NO. 5730

- 1. RESOLUTION NO. 2007-259 DIRECTING PREPARATION OF A MODIFIED ENGINEER'S REPORT ANALYZING THE IMPACT OF A PROPOSED INCREASE IN SPECIAL TAX AND MODIFYING RES. 2007-169
- 2. **RESOLUTION NO. 2007-260 -** RECEIVING AND APPROVING THE MODIFIED ENGINEER'S REPORT AND MODIFYING RES. 2007-169
- 3. RESOLUTION NO. 2007-261 ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX
- 4. RESOLUTION NO. 2007-262 CALLING A SPECIAL MAILED-BALLOT ELECTION
- 5. RESOLUTION NO. 2007-263 DECLARING ELECTION RESULTS
- 6. BILL NO. B-59 ORDINANCE NO. 2007-58 LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2007-08 AND FUTURE TAX YEARS

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon his question Assistant Public Works Director Mozier advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Sterling, seconded by President Perea, duly carried, RESOLVED, the above entitled Resolution Nos. 2007-259, 260, 261, 262 and 263 hereby adopted, and the above entitled Bill No. B-59 adopted as Ordinance No. 2007-58, by the following vote:

Ayes : Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : Calhoun Absent : None

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Councilmember Calhoun arrived at 2:04 p.m.

(10:10 A.M.) HEARING ON REZONE APPLICATION NO. R-06-69 AND ENVIRONMENTAL FINDINGS FILED BY YAMABE AND HORN ENGINEERING, INC., ON BEHALF OF STOCKBRIDGE DEVELOPMENT, INC., AND OWNERS GUY STOCKBRIDGE, STOCKBRIDGE ALFORD VENTURE, LLC, DANIEL BRIGGS, AND LINDA D. FISHER, SOUTH SIDE OF W. DAKOTA ALONG N. MILBURN AND BETWEEN N. BLYTHE AND N. CORNELIA AVENUES

- 1. CONSIDER AND ADOPT E.A. NO. R-06-69/T-5695, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
- 2. BILL NO. B-60 ORDINANCE NO. 2007-59 AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AL-20 TO R-1/UGM

150-31 7/31/07

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon his question Planning Manager Unruh advised the staff report as submitted was complete and there was no new information to add.

Applicant representative Dustin Hammel, 1993 Gettysburg, Clovis, spoke in support.

Upon call, no one else wished to be heard and President Perea closed the hearing.

On motion of Acting President Xiong, seconded by Councilmember Dages, duly carried, RESOLVED, the above E.A. hereby adopted, and the above entitled Bill No. B-60 adopted as Ordinance No. 2007-59, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

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(10:15 A.M.) CONTINUED HEARING TO CONSIDER CFD NO. 11 - ANNEXATION NO. 18 - FINAL TRACT NO. 5589

- 1. RESOLUTION ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF TAXES
- 2. RESOLUTION CALLING A SPECIAL MAILED-BALLOT ELECTION
- 3. RESOLUTION DECLARING ELECTION RESULTS
- 4. BILL LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2007-08 AND FUTURE TAX YEARS

President Perea announced the time had arrived to consider the issue and opened the hearing.

In the absence of staff and acknowledging the hearing was going to be postponed as noted by the city clerk during the morning session, City Manager Souza recommended the hearing be continued to August 21st.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled **10:15 Hearing** continued to August 21, 2007, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

Upon question of Councilmember Calhoun, Mr. Souza stated staff would clarify whether the property is located in District 1 or 2 when the matter comes back.

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(10:20 A.M.) HEARING ON REZONE APPLICATION NO. R-07-23 AND ENVIRONMENTAL FINDINGS FILED BY BILL GAVELLO ON BEHALF OF ANGIE GAVELLO LIVING TRUST, PROPERTY LOCATED ON THE SOUTHEAST CORNER OF W. EL DORADO AND S. FRUIT AVENUES

- 1. CONSIDER AND ADOPT E.A. NO. R-07-23, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
- 2. BILL NO. B-61- ORDINANCE NO. 2007-60 AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R -3 TO M 1

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon his question an unidentified staff member advised the staff report as submitted was complete and there was no new information to add.

Applicant Bill Gavello stated he agreed with staff's recommendation and conditions.

Upon call, no one else wished to be heard and President Perea closed the hearing.

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On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the above E.A. hereby adopted, and the above entitled Bill No. B-61 adopted as Ordinance No. 2007-60, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

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(10:25 A.M.) HEARING ON REZONE APPLICATION NO. R-07-34 AND ENVIRONMENTAL FINDINGS, FILED BY LELAND PARNAGIAN ON BEHALF OF DENKEN FARMS LP, PROPERTY LOCATED ON THE NORTH SIDE OF E. CENTRAL BETWEEN S. EAST AND S. ORANGE AVENUES

- 1. CONSIDER AND ADOPT E.A. NO. R-07-34, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
- 2. BILL NO. B- 62- ORDINANCE NO. 2007-61 AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-20 AND AL-20 TO M 3

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Zuniga advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the above E.A. hereby adopted, and the above entitled Bill No. B-62 adopted as Ordinance No. 2007-61, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

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(10:30 A.M.) HEARING ON REZONE APPLICATION NO. R-07-35 AND ENVIRONMENTAL FINDINGS FILED BY LORALEE GELSOR, PROPERTY LOCATED ON THE NORTH SIDE OF E. OLIVE BETWEEN N. ECHO AND N. ROOSEVELT AVENUES (529 AND 531 E. OLIVE AVENUE)

- 1. CONSIDER AND ADOPT E.A. NO. R-07-35, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
- 2. BILL NO. B- 63- ORDINANCE NO. 2007-62 AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-1 TO C-5

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Zuniga advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Acting President Xiong, seconded by Councilmember Dages, duly carried, RESOLVED, the above E.A. hereby adopted, and the above entitled Bill No. B-63 adopted as Ordinance No. 2007-62, by the following vote:

Aves : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

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(10:35 A.M.) HEARING ON REZONE APPLICATION NO. R-07-36 AND ENVIRONMENTAL FINDINGS FILED BY DONALD SIMS, PROPERTY LOCATED ON THE EAST SIDE OF S. WALNUT BETWEEN E. CHURCH AND E. GROVE AVENUES (2457 AND 2461 S. WALNUT AVENUE)

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- 1. CONSIDER AND ADOPT E.A. NO. R-07-36, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
- 2. BILL NO. B-64 ORDINANCE NO. 2007-63 AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-A/UGM TO R-1/UGM

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Zuniga advised the staff report as submitted was complete and there was no new information to add. Councilmember Calhoun briefly left the meeting at 2:11 p.m.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Sterling, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above E.A. hereby adopted, and the above entitled Bill No. B-64 adopted as Ordinance No. 2007-63, by the following vote:

Ayes: Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : Calhoun Absent : None

Councilmember Calhoun returned to the meeting at 2:12 p.m.

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(10:40 A.M.) HEARING ON REZONE APPLICATION NO. R-06-64 AND ENVIRONMENTAL FINDINGS FILED BY JAMES QUINN, ASSOCIATED DESIGN AND ENGINEERING, INC., ON BEHALF OF PERCY WILLIAMS, GREG MAROOT, ET AL., PROPERTY LOCATED ON THE SOUTH SIDE OF W. ASHLAN BETWEEN N. CORNELIA AND N. BLYTHE AVENUES **1.** CONSIDER AND ADOPT E.A. NO. R-06-64/T-5725/C-06-253, DETERMINATION OF INITIAL STUDY TO FILE A FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-65 - ORDINANCE NO. 2007-64 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-2/UGM

President Perea announced the time had arrived to consider the issue, opened the hearing, and upon question Planner Pagoulatos advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Acting President Xiong, seconded by Councilmember Dages, duly carried, RESOLVED, the above E.A. hereby adopted, and the above entitled Bill No. B-65 adopted as Ordinance No. 2007-64, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

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(2:00 P.M.) CITY COUNCIL:

("A") REQUEST STAFF CONDUCT A STUDY TO DETERMINE THE COST OF PROCESSING BUSINESS TAX TRANSACTIONS TO DETERMINE IF MINIMUM THRESHOLD TO IMPLEMENT TAX SHOULD BE RAISED TO A LEVEL THAT DOESN'T RESULT IN COST OF THE TRANSACTION EXCEEDING REVENUE RECEIVED - COUNCILMEMBER DUNCAN

Reviewed by Councilmember Duncan who made a motion as outlined above and clarified approval this date would only initiate a study to determine exactly what it costs to process a check and no changes were being made to the tax table. The motion was seconded by Councilmember Westerlund. Upon question of Councilmember Calhoun, Controller Rousseau advised staff was currently going through an overhaul of the business tax licensing area in preparation for a new software program and staff would roll this request into that process and report back. Councilmember Dages spoke briefly in support.

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On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, staff requested to conduct a study to determine the cost of processing business tax transactions to determine if the minimum threshold to implement the tax should be raised to a level that doesn't result in cost of the transaction exceeding revenue received, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

("B") BILL NO. B-66 - REPEALING A SECTION OF THE FRESNO MUNICIPAL CODE RELATING TO AUTOMATIC INCREASE OF CITY OF FRESNO BUSINESS TAX BASED UPON COST OF LIVING CHANGES - COUNCILMEMBER DUNCAN

Councilmember Duncan advised, while working on the prior issue, he found this 1990 ordinance which creates an automatic mechanism for the business tax to increase every year based on the cost of living in certain areas, added he could find no record of the City ever implementing the ordinance and he felt it was obsolete or outdated and should be removed, reiterated this was an automatic increase and the danger of it remaining on the books was that someone could, down the road, choose to use it, and stated it was important for the business community to know that City will never automatically sneak something by and made a motion to introduce the bill, which motion was seconded by Councilmember Dages.

Amy Huerta, Government Affairs Manager for the Chamber of Commerce, spoke in support of both Items "A" and "B".

Upon questions of Councilmember Calhoun, Assistant City Manager Rudd stated staff did have a little concern with eliminating the ordinance, the concern about increases being automatic was understood, it was a Council policy call on whether or not the ordinance remained on the books, and recommended staff be allowed to report back. Councilmember Calhoun acknowledged the motion might be on the right track but stated he would feel more comfortable with staff looking into the issue and reporting back. Councilmember Duncan stated the ordinance had never been used in 17 years, language was explicit that increases are automatic and he was not inclined to increase taxes automatically, the ordinance sent a bad message to the community and it had never been used, and he was comfortable with the motion as stated.

Brief discussion ensued with City Attorney Sanchez responding to questions of Councilmember Calhoun on staff's current work in updating the code, Acting President Xiong and Councilmember Westerlund concurring with Councilmember Calhoun and supporting a report back from staff, and President Perea stating he shared similar concerns but would support the motion as staff would provide an analysis when the ordinance is brought back on August 21st.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Bill No. B-66 introduced before the City Council and laid over, by the following vote:

Ayes : Dages, Duncan, Sterling, Perea Noes : Calhoun, Westerlund, Xiong

Absent: None

("C") DISCUSSION AND DIRECTION REGARDING THE INCREASED NUMBER OF NEGLECTED AND INFESTED SWIMMING POOLS IN THE CITY AND THE HEALTH IMPACTS THAT ARE CREATED - COUNCILMEMBER CALHOUN

Councilmember Calhoun reviewed his memo as submitted to Council (6 - 0) and spoke to the problem of severely neglected pools and spas, noted currently code enforcement refers cases to the Mosquito Abatement District and he was hoping there was a way that City staff could help the District do their job better and possibly put some teeth in the code to make the City more responsible, and made a motion to direct staff to research this issue and return to Council within 30 days with a recommendation and options for consideration, as outlined in his memo.

Speaking in support of the motion were: Barbara Hunt; and Steve Mulligan, Manager of the Mosquito Abatement District, who also requested they be included in any discussions and spoke to the big problem of unmaintained pools.

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Councilmember Duncan thanked Councilmember Calhoun for bringing this forward and the Mosquito Abatement District for doing a great job, and presented questions and comments relative to what the city manager's position was on this request, if there was any reluctance to getting the City too involved, what staff felt was the best way to proceed, and laws currently on the books that are doing well, with City Manager Souza responding. Mr. Souza added, as a pre-empted heads up, that utility service representatives will flag those homes that have a pool and provide that information to the Mosquito Abatement District when service is shut off.

On motion of Councilmember Calhoun, seconded by President Perea, duly carried, RESOLVED, staff directed to further research this issue and return to Council within 30 days with a recommendation and options for consideration, which may include providing authority for an expedited legal process, and/or partnering with the Fresno County Department of Health or the Fresno Mosquito Abatement District, similar to what the City currently does with the SPCA for animal control services, by the following vote:

Ayes: Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

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CLOSED SESSION ANNOUNCEMENT:

City Attorney Sanchez announced in the matter of Item "D", COF v. Board of Trustees, California State University, Council voted 4-3 to direct staff to re-file a lawsuit that had already been filed, with Councilmembers Dages, Duncan and President Perea voting "no".

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RECESS - 2:50 P.M. - 3:02 P.M.

(3:00 P.M.) GENERAL ADMINISTRATION:

("A") FRESNO METROPOLITAN MUSEUM LOAN AND SUMMARY OF DEAL POINTS

1. **RESOLUTION NO. 2007-264** - APPROVING CLARIFICATION OF THE PRIMARY TERMS OF THE LOAN AND A SUMMARY OF DEAL POINTS OF (1) A CONTINGENT DEBT PURCHASE AGREEMENT (GUARANTY) WITH UNITED SECURITY BANK AS A CONDITION TO A \$15 MILLION LOAN FROM THE BANK TO THE MUSEUM; AND (2) A PERFORMANCE GUARANTY WITH THE MUSEUM SECURED BY A DEED OF TRUST ON ALL LAND THAT THE MUSEUM OWNS; AUTHORIZING EXECUTION AND DELIVERY OF THE AGREEMENTS AND RELATED DOCUMENTS AND TAKING ALL NECESSARY ACTIONS RELATED TO THE TRANSACTIONS CONSISTENT WITH THE RESOLUTION; AND RESCINDING RES. NO. 2007-222

Administrative Manager Watahira gave an overview of the issue, all as contained in the staff report as submitted.

Speaking to the issue were: Barbara Hunt, who spoke in opposition stating the City had other priorities such as the homeless; and Jon Carroll, Fresno Metropolitan Museum, who thanked the City for working with them, clarified United Security Bank would be loaning the money -- not the City, and spoke briefly to the deal points.

Discussion ensued with Mr. Woods of United Security Bank, City Manager Souza and City Attorney Sanchez responding to questions and/or comments of Councilmembers Dages, Calhoun, Westerlund and President Perea and/or clarifying issues relative to the "dramatic" changes that took place, why the bank will not take property as security for the loan, what position the City was in, what the City would do with the property and a building in disarray if the worse case scenario happens, the issue being presented to Council this date to lay out the structure detail, clarification that the loan would be treated as a construction loan with work inspections occurring before dollars are dispersed, United Security Bank commended for stepping up and for their continued investment in downtown, this being a business risk worth taking, the importance of downtown revitalization, and this showing that the City is committed to cultural arts.

On motion of Councilmember Westerlund, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2007-264 hereby adopted, by the following vote:

Ayes: Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

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("B") RESOLUTION NO. 2007-265 - 9TH AMENDMENT TO AAR 2007-214 REDUCING APPROPRIATIONS IN THE GENERAL FUND BY \$100,000 (MATCH FUNDS FOR STORYLAND/PLAYLAND) AND PLACING \$50,000 FROM THE CITY MANAGER'S OFFICE IN CONTINGENCY TO FUND THE CITY'S PORTION OF THE CITY/COUNTY JOINT POWERS AGREEMENT (JPA)

City Manager Souza gave an overview of the issue, all as contained in the staff report as submitted.

Barbara Hunt spoke to the issue.

Mr. Souza and City Attorney Sanchez responded to questions and/or comments of Councilmembers Dages and Calhoun relative to what will happen if Fresno County does not come up with their portion for the JPA, there being no reason for the agreement if one party does not come up with their part, the City being serious about consolidation and if the City could loan the money to the County, concern with consolidation efforts halting due to a money issue, and if a formal plea/request could be made to the Board of Supervisors requesting them to join the City. President Perea stated he, in conjunction with the Mayor, would write a letter to the Board urging them to fulfill the agreement that both of the entities voted on; made a motion to adopt the resolution; spoke in support of the JPA stating it was time to walk the talk and added he would be extremely disappointed if the County does not fulfill the obligation they voted on in the 90 days; and upon his question Mr. Sanchez stated if the County does not submit the amount they would technically be in breach of the agreement (7 - 0).

On motion of President Perea, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2007-265 hereby adopted, by the following vote:

Ayes: Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

("C") DESIGNATE CITY MANAGER ANDREW SOUZA AS VOTING DELEGATE AND SELECT UP TO TWO (2) ALTERNATES FOR THE LEAGUE OF CALIFORNIA CITIES ANNUAL BUSINESS MEETING ON SEPTEMBER 8, 2007 (Action taken to designate Council President Perea Voting Delegate)

Briefly reviewed by City Manager Souza who advised both he and Assistant City Manager Ruiz would be attending the conference and he later found out President Perea would also be attending, and recommended Council consider designating President Perea as one of the voting delegates.

Barbara Hunt spoke in support of the recommendation.

Upon question of Councilmember Duncan, Mr. Souza clarified staff's recommendation whereupon Councilmember Duncan stated he would be more comfortable with an elected official as the voting delegate and made a motion.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, Council President Perea designated voting delegate and City Manager Souza and Assistant City Manager Ruiz designated alternates, by the following vote:

Ayes : Calhoun, Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : None

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(3:15 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council recessed at 3:38 p.m. and convened in joint session with the Redevelopment Agency.

APPROVE AGENCY MINUTES OF JULY 17, 2007

On motion of Councilmember Westerlund, seconded by President Perea, duly carried, RESOLVED, the Agency

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- ('A') MCKINLEY/CLOVIS AVENUES STREETSCAPE/STREET IMPROVEMENT PROJECT WITHIN THE AIRPORT AREA REVITALIZATION REDEVELOPMENT PROJECT AREA
- 1. **JOINT RESOLUTION NO. 2007-266/1705 MAKING CERTAIN FINDINGS PURSUANT TO COMMUNITY REDEVELOPMENT LAW, AND AUTHORIZING AGENCY INSTALLATION OF THE PROPOSED STREETSCAPE AND CERTAIN STREET IMPROVEMENTS ALONG MCKINLEY AND CLOVIS AVENUES**
- 2. AWARD A CONTRACT TO ELITE LANDSCAPING INC., IN THE AMOUNT OF \$1,023,040 FOR THE INSTALLATION OF SAID IMPROVEMENTS, AND MAKE FINDINGS AND DETERMINATIONS

Supervising Planner Wahlenmaier reviewed the issue, all as contained in the staff report as submitted, and recommended approval.

Barbara Hunt spoke to the issue and expressed concerns relative to use of Agency funds. Councilmember Calhoun left at 3:45 p.m. and was absent for the remainder of the meeting.

Councilmember Westerlund thanked Agency and City staff stating this was going to be a great addition to the area and explained, and made a motion to approve staff's recommendation.

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Joint Resolution No. 2007-266/1705 hereby adopted, and the above contract awarded as recommended, by the following vote:

Ayes: Dages, Duncan, Perea, Westerlund, Xiong, Sterling

Noes : None Absent : Calhoun

('B') JOINT RESOLUTION NO. 2007-267 /1706 - APPROVING AN OWNER PARTICIPATION AGREEMENT BETWEEN THE RDA AND DONALD SIMS, FOR CONSTRUCTION OF A RESIDENTIAL HOUSING PROJECT AT 1747 "B" STREET AND AN ASSOCIATED AGENCY GRANT

Project Manager Cox reviewed the issue, all as contained in the staff report as submitted.

Speaking to the issue were: Barbara Hunt, who expressed concerns relative to use of RDA funds; and project developer Donald Sims, who stated he agreed with staff's report to an extent and stated this was a good affordable housing project.

Councilmember Westerlund stated he visited the project and it was a great project, thanked RDA and City staff for all their work and assistance to the developer, and made a motion to approve.

On motion of Councilmember Westerlund, seconded by Chair Sterling, duly carried, RESOLVED, the above entitled Joint Resolution No. 2007-267/1706 hereby adopted, by the following vote:

Ayes: Dages, Duncan, Sterling, Westerlund, Xiong, Perea

Noes : None Absent : Calhoun

The joint meeting was adjourned at 3:56 p.m.

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ADJOURNMENT

There being no further business to bring before the City Council, the hour of 3:56 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned.

Approved on the	day of	. 2007
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	ATTEST:
Henry T. Perea, Council President	Yolanda Salazar, Assistant City Clerk

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